



CITY OF KIRKLAND
Department of Parks & Community Services
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MEMORANDUM

To: Kurt Triplett, City Manager

From: Jennifer Schroder, Director
Michael Cogle, Deputy Director

Date: November 30, 2013

Subject: ORDINANCE AMENDING SPECIAL EVENT POLICIES

RECOMMENDATION:

City Council adopt the attached ordinance amending the City's Special Event policies. A substitute ordinance with amendments proposed by the Council's Community Planning, Housing and Economic Development (CPHED) Committee following their meeting on November 26 is also included and Council may wish to adopt the substitute instead. The amendments in the substitute will be explained in detail at the end of the memo but they remove registration caps on athletic events such as road races from the ordinance while still allowing the Parks and Police Departments to determine caps administratively as well as allow the Parks Director to separate "similar" events under certain conditions.

BACKGROUND DISCUSSION:

In fall of 2012, the City Council asked staff to review the City's policies and practices with regard to special events. Council wanted to update policies and procedures to respond to concerns from event organizers about regulatory requirements and staff assistance. Policy issues were assigned to the Council's Community Planning, Housing, and Economic Development (CPHED) Committee.

The Council held study sessions related to special events on January 2 and February 5, 2013. On May 7, 2013 the City Council received another update on events and agreed in principal to update the Kirkland Municipal Code (KMC) to amend the provisions that can apply to these ongoing activities.

The Council then held another study session on October 1, 2013 and the CPHED Committee met on November 21, 2013 and November 26, 2013 to make final recommendations to the full Council. These meetings are described below.

Study Session of October 1

A number of policy issues were considered by the CPHED Committee and recommendations were presented to the Council at a study session on October 1, 2013. The Council generally agreed with the proposed policy recommendations with the following items noted:

1. **Community Events.** The Council supported the recommendation to designate certain special events as "Community Events". As proposed, a Community Event means a special event designated as such by the City Council which is intended primarily for Kirkland residents, is free of an admission charge, is organized by the City or a recognized Kirkland non-profit agency, and is intended to celebrate an important community holiday or tradition. Community events are provided special priority in the regulations.

For 2014, the Council will be asked to consider a separate Resolution designating two annual special events for Community Event status: the 4th of July Celebration and the Holiday Tree Lighting Festival.

The Concerts in the Park Series was also deemed an important tradition by the Council, but it is now defined as a Community Program which is not subject to the Special Events regulations.

2. **Net Profits.** On the rare occasion that two events would be proposed for the same date, the proposed policy would prioritize issuance of permits to those events which benefit a non-profit agency serving Kirkland residents. The proposed policy would define "Benefitting a Kirkland Non-Profit" to mean "a financial benefit for a non-profit agency serving Kirkland residents. The financial contribution should represent no less than 10% of the net profits of the event." The Council asked that staff consider a more meaningful definition of "net profits".

Staff has reviewed this issue with the City Attorney and recommends that the policy language remain as proposed to maintain maximum flexibility in administering the policy. While net profits generally refers to those monies available after subtracting expenses from revenues, expenses related to the costs of goods sold, overhead costs, administration, in-kind support, and taxes can be complicated and vary greatly in how they are calculated and described on a balance sheet. If we do have the occasion where this policy "tie-breaker" is required, staff will work with the event organizers to ensure that the intent of the policy – to give priority to events benefitting Kirkland residents – is being followed.

3. **Allowing Minors in Beer/Wine Gardens.** The proposed policy describes regulations pertaining to conditions for beer and wine gardens. The policy would essentially codify the permit conditions staff have been requiring administratively in the past. The Council asked that staff consider a policy of allowing minors (under age 21) into beer/wine garden events as desired by some organizers.

While admittance by minors to beer/wine gardens is legally allowable, the Police Department recommends that minors not be permitted to enter the beer/wine gardens at special events. The Police Department has reviewed this issue in depth and discussed with the Washington State Liquor Control Board. A memo from Chief Eric Olson to City Manager Kurt Triplett is attached to this report.

The current draft of the ordinance does not permit minors into beer/wine garden events. The CPHED Committee concurred with this recommendation on November 21. If the full Council prefers to allow this to occur, an amendment would be needed.

4. **Events which do not benefit a non-profit.** A question emerged regarding how the policy addresses those events which, while open to the public and occurring on public property, do not benefit a charitable organization (example: French Flea Market on Park Lane).

The City's existing special events regulations (19.24.190) detail how these types of events must reimburse the City for both direct and indirect costs incurred by the City in connection with the event. However, staff has not been charging events for indirect costs.

Effective immediately, staff will begin charging all eligible indirect City-incurred costs to those events that do not benefit a charitable organization, as already outlined in the Kirkland Municipal Code.

On a related issue, the special event policy already describes conditions affecting the issuance of a special event permit (19.24.100), including requiring that *"(8) the special event will not have significant adverse impact upon residential or business access and traffic circulation"*.

For 2014, staff will require the organizer of the French Flea Market to demonstrate event support from the majority of Park Lane merchants as a condition of permit approval.

5. **Follow-up Evaluation.** The Council expressed interest in evaluating the new policies after one year. The staff special event team would propose to conduct an evaluation at the end of next year and report back to the CPHEd Committee and full Council with findings and recommendations for any changes to the special events policies.

Recap of Other Recommended Policy Changes

The following changes to the KMC have been reviewed by the CPHEd Committee and recommended for approval as presented to the Council on October 1, 2013 and included in the attached ordinance.

19.24.010 Definitions.

The committee believes that a well-understood definition of terms is important to the administration of any policy. To that end, the following definitions are proposed to be added to the existing Chapter 19.24 of the Kirkland Municipal Code:

"Benefitting a Kirkland Non-Profit" means a financial benefit for a non-profit agency serving Kirkland residents. The financial contribution should represent no less than 10% of the net profits of the event.

"Certified race director" means a person who has successfully completed an educational program and received nationally recognized credentials showing the recipient has the knowledge required to conduct safe events for rides, runs, walks, and swims.

"Community Event" means a special event designated as such by the City Council which is intended primarily for Kirkland residents, is free of an admission charge, is organized by the city or a recognized Kirkland non-profit agency, and is intended to celebrate an

important community holiday or tradition.

"Community Programs" means activities of an on-going nature which are open to the public and provided free of an admission charge, such as weekly farmer's markets and park performing arts series.

"Fundraising Event" means a special event held by a non-profit entity that is primarily for the purposes of fund-raising for the benefit of the sponsoring non-profit.

"Major Event" means any special event that causes the closure or limited use of streets, sidewalks, public parking, parks or other public venues normally accessible by the general public or a special event that causes significant impacts to the public.

"Picketing" means a person posted by a labor organization at a place of work affected by a strike; or a person posted for a demonstration or protest.

"Tourism Event" means any special event that furthers the City's economic development goals, is primarily intended to attract participants from out of the immediate area and is eligible to receive funding from lodging tax funds. The receipt of lodging tax funds granted by the City for an event is contingent upon the issuance of a special event permit and the successful implementation of the event.

19.24.030 Exceptions to special event permit requirement.

As described above, Community Programs are proposed as on-going activities that would no longer be subject to the special event policies, but would instead be considered administratively through a separate City process, such as park use permit, right-of-way permit, or other process. Examples of Community Programs include weekly farmers' markets or a summer concerts-in-the-parks series.

Language proposed for this section would specifically exempt Community Programs from having to obtain a special event permit.

19.24.050 Priority of special event permit issuance.

This section addressed (1) a desire to state clearly that event dates are reserved on a first-come, first-serve basis one year in advance (consistent with past policy); (2) to establish criteria that will be used in case of a tie – including giving priority to those events benefitting charitable organizations; and (3) establish a policy which allows an event to occur on the same weekend for two additional years if certain success criteria have been met.

- Dates will be reserved on a first-come, first-served basis not more than one year prior to the proposed date of the event. When on the same business day more than one applicant requests the same date and venue for their event, the following criteria will be applied in the following order:
 - The event directly benefits a non-profit organization serving Kirkland residents.
 - The event and/or the event organizer have a demonstrated history of success in producing events in Kirkland.

- The event has been recommended for funding by the Tourism Development Committee.
- The event supports a City Council goal or City work program initiative.
- Special Event applicants may be granted permission to hold the same event for an additional two years on the same weekend at the same venue if “success” criteria have been met. The Special event application process shall be followed each year. The success criteria are as follows:
 - All previous special event fees have been paid in full.
 - Previous special event successfully provided for public safety (event safety plans, traffic control apparatus and volunteers), health (first aid provisions and public health requirements), and sanitation (sufficient number of maintained restroom facilities, maintenance and disposal of event garbage/recycling).
 - Previous special events properly cared for city facilities and equipment resulting in no damage.
 - Previous special event applications were properly completed, submitted on time, and in the required format.

19.25.090 Limitations on special events.

This is a proposed new section of the policy which would provide limitation on the number and size of special events, specifically limiting events to not more than two per month at any one venue and limiting the size and timing of athletic road events.

- No more than two (2) special event permits shall be issued per calendar month at any one venue, or along any one street. The Central Business District and Marina Park shall be considered as the same venue. This limitation shall not apply to Community Events designated by the City Council.
- Special Events shall be limited to no more than three (3) consecutive calendar days; one additional day may be permitted for event load-in or load-out.
- Athletic events, including runs and bike races, shall be restricted to city streets or designated trails; sidewalks will remain open for use by the general public. Organized walks may take place on city streets, trails, or sidewalks.
- Athletic events held on city streets which include road closures, either rolling or stationary, shall clear the street of all participants and traffic control devices no later than 12:00 p.m.
- Athletic event organizers will limit the number of participants in race events to:
 - 3,000 registered participants for road events longer than 13.1 miles;
 - 2,000 registered participants for road events shorter than 13.1 miles.

CPHED Committee Meetings of November 21 and November 26

At the Council’s CPHED Committee meeting on November 21, 2013, representatives from the Kirkland Chamber and Kirkland Downtown Association (KDA) attended and requested (1) that the proposed policy limiting events to no more than two per month at any one venue be further

modified to require that events not occur on consecutive weekends; and (2) that the proposed policy limiting the size of race events be reconsidered.

The committee recommends several changes to what is being proposed. The committee did not want to require non-consecutive weekends in the code, because requiring that events not occur on consecutive weekends would restrict some long-established events from occurring on their traditional dates. Examples of 2014 events that could be affected include the Kirkland Half Marathon, the National Alliance on Mental Illness (NAMI) Walk, Kirkland Uncorked, the Kirkland Classic Car Show, and possibly Summerfest, which is being considered by event organizers for an earlier summer date next year. Instead, the committee suggests that the Parks Director be given the authority to move similar events to non-consecutive weekends under certain conditions which will be described below. Staff will continue to work closely with event organizers to schedule and conduct events in a manner both consistent with policy and sensitive to venue and neighborhood impacts. An evaluation of the new policy limiting events on a monthly basis should be included as part of the overall special event policy review.

The Chamber/KDA representatives made several policy arguments for non-consecutive weekends. The first was to avoid sponsorship competition and public confusion over similar events in the same venue. More importantly, the group discussed how critical some KDA events are as supplementary fundraisers to help the Chamber/KDA accomplish the community events and programs that the City has asked them to help facilitate. The City provides the KDA with \$45,000 annually and requires that the KDA help ensure the 4th of July celebration, Holiday Tree Lighting, summer Concerts-in-the-Park, Downtown Flower Pots and Clean-Sweep events all occur in return for the funding. The money provided by the City is not enough to fund each of these efforts and the Chamber/KDA uses additional events as fundraisers. The group felt it was important for the City to acknowledge the role of these supplementary events in achieving the Council's overall community event and program goals. The group also felt that such supplementary events needed prioritization and "protection" from similar events that may not generate money to support community events and programs.

The committee agreed that there was public value from such supplementary events, but legislative "protection" of these events was too difficult and needed to be handled on a case-by-case basis. To address these concerns, the CPHEd committee recommends two amendments to the ordinance. The first is that a new definition be included in the ordinance as follows:

"Supportive Events" are events whose purpose is to provide a positive community experience while also generating revenues to assist the funding of Community Events and Community Programs.

The second amendment would authorize the Parks Director to prioritize Supportive Events by giving the Director the discretion to deny events or require alternative dates and/or venues for events that are similar in nature and might negatively impact the success of Supportive Events. Event organizers can appeal the decision to the City Manager.

Participant Caps

Limitations on the number of participants in race events are intended to ensure the safety of participants, spectators, and passers-by and are at the request of the Police Department. The committee felt that limitations were appropriate and safety was a paramount concern. However, the committee recommends that the participant limits not be included in the

ordinance itself, but that the Parks Director, in consultation with the Police Department and Special Event Team, has the express authority to impose participant limits in the interest of public safety. Event organizers can also appeal this decision to the City Manager.

Attachments:

Memorandum from Chief Olson
Existing KMC Chapter 19.24
Ordinance Amending KMC Chapter 19.24
Substitute Ordinance with CPHED Amendments
Publication Summary

**CITY OF KIRKLAND****Police Department**

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MEMORANDUM

To: Kurt Triplett
From: Chief Eric Olsen
Date: November 15, 2013
Subject: All-ages Beer/Wine Gardens

I wish to respectfully offer my perspective regarding the possible rules change which may allow minors to be present at special events where wine or beer is served. As the Chief of Police, I strongly support the various special events, festivals and other such activities which occur city wide throughout the year. Such events are very well attended, provide for a vibrant economy and instill a strong sense of family and community. However, as both the Chief of Police and as an experienced police officer, I simply can't support a rule change which would result in an all-ages beer or wine garden. I've given this issue careful consideration, and yet can't think of a compelling reason to change present course and allow minors to be present with adults in areas where the activity is primarily focused on alcohol consumption. There are many public safety considerations when minors are in crowded spaces or otherwise co-mingled with drinking adults. Among those are the potential for over-service, easier access to alcohol by minors, and children being transported home by adults who have been drinking.

The enforcement of DUI laws and other illegal alcohol related behaviors is a strong community concern and mitigating this public danger remains a priority for the Kirkland Police Department. I believe that the noted rules change would unnecessarily increase the risk of a potential tragedy.

Should minors be allowed in the beer and wine gardens, much greater vigilance would be required by civilian personnel hired to check identification and monitor sales and consumption. It is unclear what type of training is given to the staff of these events and some may be volunteers with little or no experience working in a venue serving alcohol. Any failure in vigilance on the part of event staff would require greater intervention by the Police Officers who work the event.

In researching Washington State Law regarding allowing minors in beer/wine gardens at Special Events, there does not appear to be a bright line rule. Frank Gallegos, WSLCB, responded to the query of all ages beer gardens with:

"If the driving force for the garden is alcohol then it has to be off limits to minors. If alcohol is incidental to the garden then it can be open to families."

This leaves the impression that how an organizer presents the beer/wine garden in relation to the event determines whether there should be age restrictions. However, past practice at Kirkland special events is that the beer/wine gardens are specifically for the purchase and consumption of alcohol and thus the “driving force” for them.

Our neighboring cities, Bellevue and Redmond, do not allow all-ages beer/wine gardens at Special Events. Bellevue does not allow alcohol at outdoor events at all. Marymoor Park in Redmond, a King County Park, operates under different guidelines and is not representative of the topic at hand.

In speaking with Oskar Rey, his opinion is that given how unclear the state rules are, it would be preferable for Kirkland’s policy to be 21 years old and over for beer/wine gardens. This would provide clear guidance for the Special Events Team when issuing permits for events.

Chapter 19.24
SPECIAL EVENTS

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19.24.010 Definitions.

Terms used in this chapter shall have the following meanings:

- (1) “Demonstration” means a public display of group opinion as by a rally or march, the principal purpose of which is expressive activity.
- (2) “Event organizer” means any person who conducts, manages, promotes, organizes, aids, or solicits attendance at a special event.
- (3) “Event management company” means an entity with expertise in managing special events.
- (4) “Expressive activity” includes conduct the sole or principal object of which is the expression, dissemination, or communication by verbal, visual, literary, or auditory means of political or religious opinion, views, or ideas and for which no fee or donation is charged or required as a condition of participation in or attendance at such activity. For purposes of this chapter, expressive activity does not include sports events, including marathons, fundraising events, or events the principal purpose of which is entertainment.
- (5) “Gross revenues” means the sum of all revenues received by an event organizer for a special event including, but not limited to, cash receipts, licensing, sponsorships, television, advertising and similar revenues, and concessions.
- (6) “March” means an organized walk or event whose principal purpose is expressive activity in service of a public cause.
- (7) “Noncommercial special event” means any special event organized and conducted by a person or entity that qualifies as a tax-exempt nonprofit organization, or a special event whose principal purpose is expressive activity.
- (8) “Rally” means a gathering whose principal purpose is expressive activity, especially one intended to inspire enthusiasm for a cause.
- (9) “Sidewalk” means that portion of a right-of-way, other than the roadway, set apart by curbs, barriers, markings, or other delineation for pedestrian travel.

(10) “Sign” means any sign, pennant, flag, banner, inflatable display, or other attention-seeking device.

(11) “Special event service team” means representatives assigned by their respective department directors to represent the interests of their department as it relates to the issuance of special event permits.

(12) “Special event” means any fair, show, parade, run/walk, festival, or other publicly attended entertainment or celebration which is to be held in whole or in part upon publicly owned property or public rights-of-way, or if held wholly upon private property, will nevertheless affect or impact the ordinary and normal use by the general public of public property or public rights-of-way within the vicinity of such event.

(13) “Special event permit” means a permit issued under this chapter.

(14) “Special event venue” means that area for which a special event permit has been issued.

(15) “Street” means any place that is publicly maintained and open to use of the public for purposes of vehicular travel, including highways.

(16) “Tax-exempt nonprofit organization” means an organization that is exempted from payment of income taxes by federal or state law and has been in existence for a minimum of six months preceding the date of application for a special event permit.

(17) “Vendor” means any person who sells or offers to sell any goods, food, or beverages within a special event venue. (Ord. 4116 § 2 (part), 2007)

19.24.020 Special event permit required.

(a) Except as provided elsewhere in this chapter, any person or entity who conducts, promotes, or manages a special event shall first obtain a special event permit from the special event coordinator.

(b) The special event coordinator is authorized to issue permits for special events occurring within the city limits, pursuant to the procedures established in this chapter. The special event coordinator is authorized to determine the special event venue. The special event coordinator may impose reasonable conditions on the use of the special events venue based on the provisions of this chapter. The special event coordinator shall coordinate the issuance of a special event permit with the special event team and other public agencies through whose jurisdiction or property the special event or portion thereof occurs and to issue a special event permit upon the concurrence of other public agencies involved. (Ord. 4116 § 2 (part), 2007)

19.24.030 Exceptions to special event permit requirement.

(a) Although not required to be issued a special event permit, an event organizer of an activity exempted from this chapter is required to comply with all local, state and federal laws and regulations governing public safety or health.

(b) The following activities are exempt from having to obtain a special event permit:

(1) Parades, athletic events or other special events that occur exclusively in city parks and are sponsored or conducted in full by the city of Kirkland parks department;

(2) Funeral procession by a licensed mortuary;

(3) Gatherings of one hundred or fewer people in a city park, unless merchandise or services are offered for sale or trade to the public, in which case a special event permit is required;

(4) Temporary sales conducted by businesses, such as holiday sales, grand opening sales, sidewalk sales, or anniversary sales;

(5) Garage sales, rummage sales, lemonade stands and car washes;

(6) Private events held entirely on private property that do not involve the use of or have an impact on public property or facilities and that do not require the provision of city public safety services;

(7) Activities conducted by a governmental agency acting within the scope of its authority;

(8) Lawful picketing on sidewalks; and

(9) Block parties, which must be applied for through a separate, streamlined city process. (Ord. 4116 § 2 (part), 2007)

19.24.040 Issuance of a special event permit does not obligate city services.

Issuance of a special event permit under this chapter does not obligate or require the city of Kirkland to provide city services, equipment, or personnel in support of a special event. (Ord. 4116 § 2 (part), 2007)

19.24.050 Priority of special event permit issuance.

Except for a special event sponsored by the city, priority shall be given for the issuance of a special event permit to local tax-exempt nonprofit organizations operating in and providing services to the citizens of the city. (Ord. 4116 § 2 (part), 2007)

19.24.060 Time for filing application for special event permit.

(a) Except as otherwise provided in this chapter, a pre-application meeting shall be held no less than one year in advance of a new special event and no less than six months in advance of a repeat special event. Upon good cause shown and provided that there is no significant risk or burden to the city, the special event coordinator may, in his or her discretion, allow a later pre-application meeting.

(b) A complete application for a special event permit shall be filed with the special event coordinator not less than forty-five calendar days before the time when it is proposed to conduct the special event. Upon good cause shown and provided that no risk or burden to the city ensues, the special event coordinator has discretion to allow a later filing.

(c) An application for an expressive activity special event permit shall be filed with the special event coordinator no less than seven calendar days before the time when it is proposed to conduct the expressive activity special event. Upon good cause shown and provided that no risk or burden to the city ensues, the special event coordinator may, in his or her discretion, allow a later filing. (Ord. 4116 § 2 (part), 2007)

19.24.070 When application for special event permit is deemed complete.

An application for a special event permit is deemed complete when the applicant has provided all of the information required in Section [19.24.090](#), including any additional information required by the special event coordinator, and where city services are to be provided, the application has been approved by any involved city department, or the special event service team, and the city manager and the city council, if required. (Ord. 4116 § 2 (part), 2007)

19.24.080 Date of special event not confirmed until notice of confirmation issued.

Notwithstanding the special event coordinator's acceptance of a completed application, the date of the event shall not be considered confirmed and the applicant shall not market or promote the event until the special event coordinator issues a written notice of confirmation. (Ord. 4116 § 2 (part), 2007)

19.24.090 Content of special event permit application.

The application for a special event permit should include the following:

- (1) The name, address, fax, cell, email address, and office telephone number of the applicant;
- (2) A certification that the applicant will be financially responsible for any city fees or costs that may be imposed for the special event;
- (3) The name, address, fax, cell, email address and telephone number of the event organizer, if any, and the chief officer of the event organizer, if any;
- (4) A list of emergency contacts that will be in effect during the event, and the event web address, if any; and
- (5) If the special event is designed to be held by, on behalf of, or for any organization other than the applicant, the applicant for the special event permit shall file a signed, written communication from such organization:
 - (A) Authorizing the applicant to apply for the special event permit on its behalf;
 - (B) Certifying that the applicant will be financially responsible for any costs or fees that may be imposed for the special event;
 - (C) A copy of the tax exemption letter issued for any applicant claiming to be a tax-exempt nonprofit organization;

(6) All permit applications should include:

- (A) A statement of the purpose of the special event;
- (B) A statement of fees to be charged for the special event, including admissions tax documentation;
- (C) The proposed location for the special event;
- (D) Dates and times when the special event is to be conducted;
- (E) The approximate times when assembly for, and disbanding of, the special event is to take place;
- (F) The proposed locations of the assembly or production area;
- (G) The specific proposed site or route, including a map and written narrative of the route;
- (H) The proposed site of any reviewing stands;
- (I) The proposed site for any disbanding area;
- (J) Proposed alternate routes, sites or times, where applicable;
- (K) The approximate number of persons, animals or vehicles that will constitute the special event;
- (L) The kinds of animals anticipated to be part of the special event;
- (M) A description of the types of vehicles to be used in the special event;
- (N) The number of bands or other musical units and the nature of any equipment to be used to produce sounds or noise;
- (O) The number and location of portable sanitation facilities;
- (P) Other equipment or services necessary to conduct the special event with due regard for participant and public health and safety;
- (Q) The number of persons proposed or required to monitor or facilitate the special event and provide spectator or participant control and direction for special events using city streets, sidewalks, or facilities;
- (R) Provisions for first aid or emergency medical services, or both, based on special event risk factors;
- (S) Insurance and surety bond information;
- (T) Any special or unusual requirements that may be imposed or created by virtue of the proposed special event activity;
- (U) The marketing plan with proposed timelines associated with marketing the activity to the general public;

(V) Event timeline documenting activities from event set-up to event tear-down; and

(W) Any other information required by the special event coordinator. (Ord. 4116 § 2 (part), 2007)

19.24.100 Conditions affecting the issuance of a special event permit.

(a) Where the event organizer has not requested and the special event does not require city services, equipment, or personnel, the special event coordinator may issue a special event permit when, based upon the completed application, all of the conditions listed in this section are met:

(1) The special event will not substantially interrupt public transportation or other vehicular and pedestrian traffic in the area of its route;

(2) The special event will not cause an irresolvable conflict with construction or development in the public right-of-way or at a public facility;

(3) The special event will not block traffic lanes or close streets during peak commuter hours on weekdays between seven a.m. to nine a.m. and four p.m. to six p.m. on streets designated as arterials by the city's public works department;

(4) The special event will not require the diversion of police employees from their normal duties;

(5) The concentration of persons, animals or vehicles will not unduly interfere with the movement of police, fire, ambulance, and other emergency vehicles on the streets;

(6) The special event will move from its assembly location to its disbanding location expeditiously and without stopping en route;

(7) The special event will not substantially interfere with any other special event for which a permit has already been granted or with the provision of city services in support of other scheduled special events or unscheduled governmental functions; and

(8) The special event will not have significant adverse impact upon residential or business access and traffic circulation in the same general venue.

(b) In order to ensure that the conditions in this section are met, the special event coordinator may place conditions on the special event permit. (Ord. 4116 § 2 (part), 2007)

19.24.110 Reasons for denial of a special event permit.

(a) The special event coordinator may deny a special event permit to an applicant who has not:

(1) Provided for the services of a sufficient number of trained and certified traffic controllers;

(2) Provided sufficient monitors for crowd control and safety two weeks prior to the event date;

(3) Provided sufficient safety, health, or sanitation equipment services, or facilities that are reasonably necessary to ensure that the special event will be conducted with due regard for safety;

(4) Provided sufficient off-site parking or shuttle service, or both, when required, to minimize any substantial adverse impacts on general parking and traffic circulation in the vicinity of the special event; or

(5) Met all of the requirements for submitting an application for a special event permit.

(b) The special event coordinator may deny a special event permit if in the special event coordinator's opinion:

(1) The special event will create the imminent possibility of violent disorderly conduct likely to endanger public safety or to result in significant property damage;

(2) The special event will violate public health or safety laws;

(3) The special event fails to conform to the requirements of law or duly established city policy;

(4) The applicant demonstrates an inability or unwillingness to conduct a special event pursuant to the terms and conditions of this chapter;

(5) The applicant has failed to conduct a previously authorized or exempted special event in accordance with law or the terms of a permit, or both;

(6) The applicant has not obtained the approval of any other public agency within whose jurisdiction the special event or portion thereof will occur;

(7) The applicant has failed to provide an adequate first aid or emergency medical services plan based on special event risk factors; or

(8) The applicant has failed to pay all fees due from previous special events.

(c) The special event coordinator may deny a special event permit to an applicant who has failed to comply with any term of this chapter or with any condition of a special event permit previously issued to the applicant. (Ord. 4116 § 2 (part), 2007)

19.24.120 Denial of a special event permit application—Appeals from denial.

(a) If the special event coordinator denies the application for the special event permit, pursuant to this section, he or she shall notify the applicant in writing as soon as is reasonably practicable.

(b) The denial of a special event permit may be appealed to the city manager or his or her designee.

(c) An appeal shall be made in writing within seven calendar days of the date of the written denial. An appeal is made by filing a written petition with the special event coordinator, setting forth the grounds for appeal and any documentation in support of the appeal.

(d) The city manager shall consider and decide the appeal as soon as is reasonably practicable and issue a written decision. (Ord. 4116 § 2 (part), 2007)

19.24.130 Display of special event permit required.

A copy of the special event permit shall be displayed in the special event venue in the method prescribed by the special event coordinator applicable to the particular special event and shall be exhibited upon demand of any city official. (Ord. 4116 § 2 (part), 2007)

19.24.140 Contents of special event permit.

(a) The city may condition the issuance of a special event permit by imposing reasonable requirements concerning the time, place and manner of the event, and such requirements as are necessary to protect the safety and rights of persons and property, and the control of traffic. A special event permit may include the following information or conditions:

- (1) The location of the special event venue, which may be identified by a map attached to the special event permit;
- (2) The date, assembly area, time for assembly, and starting time of the special event;
- (3) The specific route plan of the special event;
- (4) The minimum and maximum speeds of the special event;
- (5) The number and types of persons, animals, and vehicles or structures at the event; the number of bands, other musical units, and equipment capable of producing sound, if any; and limitations thereon pertaining to noise abatement, and inspection and approval of floats, structures, and decorated vehicles for fire safety;
- (6) The maximum interval of space to be maintained between booths or other structures to be used for the special event;
- (7) The portion of the street and sidewalk that is to be occupied by the special event;
- (8) The location of reviewing or audience stands, if any;
- (9) The number and location of traffic controllers, monitors, other support personnel and equipment, and barricades to be furnished by the special event organizer;
- (10) The area and time for disbanding;
- (11) The conditions or restrictions on the use of alcoholic beverages and authorization for and conditions of the exclusive control or regulation of vendors and related sales activity by the event organizer during the special event;
- (12) The provisions for any required emergency medical services; and
- (13) Such other information and conditions as are reasonably necessary for the conduct of the special event and the enforcement of this chapter, including the requirement for a professional event

management company to produce an event or for the on-site presence of the event organizer or its designated representative for all special event coordination and management purposes.

(b) As a condition of the issuance of a special event permit, the applicant shall be required to do a walk-through of the event site with the special event coordinator prior to the event, and make adequate provisions for cleaning the area or route of the special event both during and upon completion of the special event and to return the area or route to the same condition of material preservation and cleanliness as existed prior to the special event. (Ord. 4116 § 2 (part), 2007)

19.24.150 Special event coordinator's action on special event permit application.

(a) Except as otherwise provided in this section, the special event coordinator shall take final action upon a completed application for a special event permit as soon as practicable.

(b) The special event coordinator is not required to take final action upon any special event permit application prior to one hundred eighty calendar days before the special event.

(c) The special event coordinator is not required to take final action on an incomplete or untimely special event permit application.

(d) The special event coordinator is not required to process more than one application for a special event permit per applicant during any two-week period.

(e) The special event coordinator is not required to take final action upon two or more special event permit applications submitted by the same applicant unless two or more weeks shall have elapsed between the respective dates of submission of each.

(f) Final action on a completed special event permit application shall consist of one of the following:

(1) Issuance of a special event permit in accordance with the terms of the application; or

(2) Issuance of a special event permit in accordance with the terms of the application, as conditioned by the special event coordinator or as modified by mutual agreement between the special event coordinator and the applicant; or

(3) Denial of the special event permit application by the special event coordinator. (Ord. 4116 § 2 (part), 2007)

19.24.160 Insurance required to conduct special event.

(a) The event organizer of a special event must possess or obtain comprehensive general liability insurance to protect the city against loss from liability imposed by law for damages on account of bodily injury and property damage arising from the special event. Such insurance shall name the city of Kirkland, its officers, employees, and agents, and, as required, any other public entity involved in the special event, as additional insured. Insurance coverage must be maintained for the duration of the special event. Notice of cancellation shall be provided immediately to the city.

(b) Except as provided in this section, the comprehensive general liability insurance coverage required shall be in a combined single limit of at least one million dollars.

(c) If the special event is of a demonstrated high or low risk category, according to recognized insurance and risk management standards, the city's risk manager may authorize a greater or lesser amount of coverage than otherwise required, or may require a particular type of insurance coverage different from that specified in this section.

(d) The insurance required by this section shall encompass all liability insurance requirements imposed for other permits required under other sections of this chapter and is to be provided for the benefit of the city and not as a duty, express or implied, to provide insurance protection for spectators or participants.

(e) The event organizer's current effective insurance policy, or copy, along with necessary endorsements, shall be filed with the special event coordinator at least thirty calendar days before the special event, unless the special event coordinator for good cause modifies the filing requirements. (Ord. 4116 § 2 (part), 2007)

19.24.170 Waiver of insurance requirements.

(a) Except for special events where the sale of alcoholic beverages is authorized, the insurance requirements of Section [19.24.160](#) may be waived. In making the determination of whether to waive insurance, the city shall consider the following factors:

(1) Whether it is an expressive activity special event governed by Section [19.24.220](#);

(2) Whether it is objectively impossible to obtain insurance coverage;

(3) Whether the special event will involve the use of equipment (other than sound equipment), vehicles, animals, fireworks, or pyrotechnics; or

(4) Whether a fee or donation is charged or required as a condition of admission or participation in the special event.

(b) To claim that it is objectively impossible to obtain insurance coverage pursuant to this section, the applicant shall submit a statement from at least two independent licensed insurance brokers demonstrating the insurance is unavailable in the marketplace.

(c) Even though insurance is waived, the city may require the event organizer of a special event to defend, indemnify, and hold harmless the city from any claim or liability arising from the special event. (Ord. 4116 § 2 (part), 2007)

19.24.180 Revocation of special event permit.

(a) Any special event permit issued pursuant to this chapter is subject to revocation, pursuant to this section.

(b) A special event permit may be revoked if the city determines:

(1) That the special event cannot be conducted without violating the standards or conditions for special event permit issuance;

(2) The special event is being conducted in violation of any condition of the special event permit;

(3) The special event poses a threat to health or safety;

(4) The event organizer or any person associated with the special event has failed to obtain any other permit required pursuant to the provisions of this chapter;

(5) The special event permit was issued in error or contrary to law;

(6) The applicant has not paid all fees when due; or

(7) The applicant has failed to provide confirmation or proof that it has obtained the minimum number of required volunteers to perform safety functions.

(c) Except as provided in this section, notices of revocation shall be in writing and specifically set forth the reasons for the revocation.

(d) If there is an emergency requiring immediate revocation of a special event permit, the special event coordinator may notify the permit holder verbally of the revocation.

(e) An appeal from a revocation shall be handled in the same manner and under the same time requirements as denials of special event permits, pursuant to Section [19.24.120](#). (Ord. 4116 § 2 (part), 2007)

19.24.190 Cost recovery for special events.

Upon approval of an application for a permit for a special event not protected under the First and Fourteenth Amendments of the U.S. Constitution, the special event coordinator should provide the applicant with a statement of the estimated cost of city services and of equipment, materials and permit fees.

(1) The full range of costs associated with special events shall be documented.

(2) A special event permit fee shall be charged. The amount of the fee shall be set administratively by the city manager or his or her designee.

(3) For special events in which benefits to recognized charitable organizations are a significant component, staff time and costs associated with day of event activities shall be charged based on the city's direct costs only. For all other special events, staff time and costs incurred shall be for the full amount of costs incurred by the city in connection with the event, including indirect costs of staff time such as benefits and all overhead costs associated with the position.

(4) The special event coordinator shall require payment of fees, or a reasonable estimate thereof, at the time the completed application is approved, unless the special event coordinator for good cause extends time for payment.

(5) If the event organizer fails to comply with the cleanup requirements of Section [19.24.140](#), the event organizer will be billed for actual city costs for cleanup and repair of the special event area or route.

(6) If the event organizer fails to comply with Section [19.24.140](#) or this section under a previously issued special event permit, the special event coordinator may require the event organizer to deposit adequate surety in the form of cash or bond. (Ord. 4116 § 2 (part), 2007)

19.24.200 Effect of receipt of donations on status of tax-exempt nonprofit organizations.

A tax-exempt nonprofit organization hosting a special event may acknowledge the receipt of cash or in-kind services or goods, donations, prizes, or other consideration from for-profit organizations without causing the special event to be considered a commercial special event within the meaning of this chapter. Such acknowledgment may include use of the name, trademark, service mark, or logo of such a for-profit organization in the name or title of the special event or the prominent appearance of the same in advertising or on collateral material associated with the special event. (Ord. 4116 § 2 (part), 2007)

19.24.220 Expressive activity special event.

When a special event permit is sought for an expressive activity such as a demonstration, rally, or march as defined in this chapter, the following exceptions shall apply:

(1) Where the special event will not require temporary street closures, cost recovery, pursuant to Section [19.24.190](#), shall be limited solely to a fee based on the cost of processing the permit application.

(2) The insurance requirement of Section [19.24.160](#) shall be waived; provided, that the event organizer has filed with the application a verified statement that he or she intends the special event purpose to be First Amendment expression and the cost of obtaining insurance is financially burdensome and would constitute an unreasonable burden on the right of First Amendment expression. The verified statement shall include the name and address of one insurance broker or other source for insurance coverage contacted to determine premium rates for coverage.

(3) Where the special event will require temporary street closures and any one or more of the conditions of subsection (4) of this section, are met requiring the city to provide services in the interests of public health, safety, and welfare, the special event coordinator may condition the issuance of the special event permit upon payment of actual, direct costs incurred by the city to a maximum of five hundred dollars. Any fee schedule adopted by the city shall contain a provision for waiver of, or a sliding scale for payment of, fees for city services, including police costs, on the basis of ability to pay.

(4) The city may deny a special event permit for a demonstration, rally or march if:

(A) The special event will substantially interrupt public transportation or other vehicular and pedestrian traffic in the area of its route;

(B) The special event will cause an irresolvable conflict with construction or development in the public right-of-way or at a public facility;

(C) The special event will block traffic lanes or close streets during peak commuter hours on weekdays between seven a.m. to nine a.m. and four p.m. to six p.m. on streets designated as arterials by the city's public works department;

(D) The special event will require the diversion of police employees from their normal duties;

(E) The concentration of persons, animals, or vehicles will unduly interfere with the movement of police, fire, ambulance, and other emergency vehicles on the streets;

(F) The special event will substantially interfere with another special event for which a permit has already been granted or with the provision of city services in support of other scheduled special events; or

(G) The special event will have significant adverse impact upon residential or business access and traffic circulation in the same general venue.

(5) With regard to the permitting of expressive activity special events where the provisions in this section conflict with the provisions in any other section of this chapter, the provisions of this section shall prevail.

(6) Sections [19.24.100](#), [19.24.110](#) and [19.24.260](#) of this chapter shall not apply to expressive activity special events. (Ord. 4116 § 2 (part), 2007)

19.24.240 Delegation of city manager's authority.

The city manager may delegate any or all of his or her functions under this chapter to his or her deputies or subordinates. (Ord. 4116 § 2 (part), 2007)

19.24.250 City manager authorized to adopt rules and regulations.

The city manager is authorized to promulgate additional rules and regulations that are consistent with and that further the terms and requirements set forth within this chapter and the provisions of law that pertain to the conduct and operation of a special event. (Ord. 4116 § 2 (part), 2007)

19.24.260 Authorized special event vendors.

(a) The issuance of a special event permit confers upon the permit holder or event organizer the right to control and regulate the sale of goods, food, and beverages within the special event venue in accordance with the terms and conditions of the special event permit.

(b) Vendors authorized to sell goods, food, or beverages in the special event venue shall display their authorization in the manner required by the city manager. Only vendors displaying the required authorization shall be allowed to sell goods, food, or beverages in the special event venue. (Ord. 4116 § 2 (part), 2007)

19.24.270 Unlawful to conduct or promote attendance at special event without permit.

(a) It is unlawful to conduct a special event without a special event permit as required pursuant to this chapter.

(b) It is unlawful for any person to conduct, promote, or manage any special event for which a special event permit has not been issued. (Ord. 4116 § 2 (part), 2007)

19.24.280 Other permits and licenses.

The issuance of a special event permit does not relieve any person from the obligation to obtain any other permit or license required pursuant to the Kirkland Municipal Code or any other applicable law. (Ord. 4116 § 2 (part), 2007)

19.24.290 Unlawful to sell goods in special event venue without authorization.

It is unlawful for any person to sell, resell, or offer to sell or resell, any goods, food, or beverages in a special event venue except for authorized special event vendors. (Ord. 4116 § 2 (part), 2007)

19.24.300 Cost recovery for unlawful special event.

Whenever a special event is conducted without a special event permit when one is required or is conducted in violation of the terms of an issued special event permit, the event organizer shall be responsible for, and the city shall charge the event organizer for, all city costs incurred as a result of the adverse impacts of the special event or the violation of the special event permit. (Ord. 4116 § 2 (part), 2007)

19.24.310 Penalties for violations.

(a) The special event permit authorizes the applicant to conduct only such an event as is described in the permit, and in accordance with the terms and conditions of the permit. It is unlawful for the applicant to violate the terms and conditions of the permit, or for any event participant to violate the terms and conditions of the permit or to continue with the event if the permit is revoked or expired. An event applicant cannot make changes to the permit. All requests for changes must be submitted for review by the special event coordinator.

(b) Any person or organization violating the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a penalty of a fine of not more than five hundred dollars or by imprisonment of not more than ninety days, or both such fine and imprisonment. (Ord. 4116 § 2 (part), 2007)

ORDINANCE O-4431

AN ORDINANCE OF THE CITY OF KIRKLAND AMENDING AND UPDATING CHAPTER 19.24 OF THE KIRKLAND MUNICIPAL CODE RELATING TO SPECIAL EVENTS.

The City Council of the City of Kirkland ordains as follows:

Section 1. Kirkland Municipal Code ("KMC") Section 19.24.010 is hereby amended to read as follows:

19.24.010 Definitions.

Terms used in this chapter shall have the following meanings:

(1) "Benefitting a Kirkland Non-Profit" means a financial benefit for a non-profit agency serving Kirkland residents. The financial contribution should represent no less than 10% of the net profits of the event.

(2) "Certified race director" means a person who has successfully completed an educational program and received nationally recognized credentials showing the recipient has the knowledge required to conduct safe events for rides, runs, walks, and swims.

(3) "Community Event" means a special event designated as such by the City Council which is intended primarily for Kirkland residents, is free of an admission charge, is organized by the city or a recognized Kirkland non-profit agency, and is intended to celebrate an important community holiday or tradition.

(4) "Community Programs" means activities of an on-going nature which are open to the public and provided free of an admission charge, such as weekly farmer's markets and park performing arts series.

(15) "Demonstration" means a public display of group opinion as by a rally or march, the principal purpose of which is expressive activity.

(26) "Event organizer" means any person who conducts, manages, promotes, organizes, aids, or solicits attendance at a special event.

(37) "Event management company" means an entity with expertise in managing special events.

(48) "Expressive activity" includes conduct the sole or principal object of which is the expression, dissemination, or communication by verbal, visual, literary, or auditory means of political or religious opinion, views, or ideas and for which no fee or donation is charged or required as a condition of participation in or attendance at such activity. For purposes of this chapter, expressive activity does not include ~~fairs, festivals, concerts, performances, parades, athletic sports events, including marathons,~~ fundraising events, or events the principal purpose of which is entertainment.

(9) "Fundraising Event" means a special event held by a non-profit entity that is primarily for the purposes of fund-raising for the benefit of the sponsoring non-profit.

(510) "Gross revenues" means the sum of all revenues received by an event organizer for a special event including, but not limited to,

cash receipts, licensing, sponsorships, television, advertising and similar revenues, and concessions.

(11) "Major Event" means any special event that causes the closure or limited use of streets, sidewalks, public parking, parks or other public venues normally accessible by the general public or a special event that causes significant impacts to the public.

(612) "March" means an organized walk or event whose principal purpose is expressive activity in service of a public cause.

(713) "Noncommercial special event" means any special event organized and conducted by a person or entity that qualifies as a tax-exempt nonprofit organization, or a special event whose principal purpose is expressive activity.

(14) "Picketing" means a person posted by a labor organization at a place of work affected by a strike; or a person posted for a demonstration or protest.

(815) "Rally" means a gathering whose principal purpose is expressive activity, especially one intended to inspire enthusiasm for a cause.

(916) "Sidewalk" means that portion of a right-of-way, other than the roadway, set apart by curbs, barriers, markings, or other delineation for pedestrian travel.

(1017) "Sign" means any sign, pennant, flag, banner, inflatable display, or other attention-seeking device.

(1118) "Special event service team" means representatives assigned by their respective department directors to represent the interests of their department as it relates to the issuance of special event permits.

(1219) "Special event" means any fair, festival, concert, performance, show, parade, run/walk/bike, festival, or other publicly attended entertainment or celebration which is to be held in whole or in part upon publicly owned property or public rights-of-way, or if held wholly upon private property, will nevertheless affect or impact the ordinary and normal use by the general public of public property or public rights-of-way within the vicinity of such event.

(1320) "Special event permit" means a permit issued under this chapter.

(1421) "Special event venue" means that area for which a special event permit has been issued.

(1522) "Street" means any place that is publicly maintained and open to use of the public for purposes of vehicular travel, including highways.

(1623) "Tax-exempt nonprofit organization" means an organization that is exempted from payment of income taxes by federal or state law and has been in existence for a minimum of six months preceding the date of application for a special event permit.

(24) "Tourism Event" means any special event that furthers the City's economic development goals, is primarily intended to attract participants from out of the immediate area and is eligible to receive funding from lodging tax funds. The receipt of lodging tax funds

granted by the City for an event is contingent upon the issuance of a special event permit and the successful implementation of the event.

(1725) "Vendor" means any person who sells or offers to sell any goods, food, or beverages within a special event venue.

Section 2. KMC Section 19.24.030 is amended to read as follows:

19.24.030 Exceptions to special event permit requirement.

(a) Although not required to be issued a special event permit, an event organizer of an activity exempted from this chapter is required to comply with all local, state and federal laws and regulations governing public safety or health.

(b) The following activities are exempt from having to obtain a special event permit:

(1) Parades, athletic events or other special events that occur exclusively in city parks, ~~and are sponsored or conducted in full by the city of Kirkland parks department~~ which must be applied for through a separate city process;

(2) Funeral procession by a licensed mortuary;

(3) Public Ggatherings of one hundred or fewer people in a city park, unless merchandise or services are offered for sale or trade to the public, in which case a special event permit is required;

(4) Temporary sales conducted by businesses, such as holiday sales, grand opening sales, sidewalk sales, or anniversary sales;

(5) Garage sales, rummage sales, lemonade stands and car washes;

(6) Private events held entirely on private property that do not involve the use of or have an impact on public property or facilities and that do not require the provision of city public safety services;

(7) Activities conducted by a governmental agency acting within the scope of its authority;

(8) Lawful picketing on sidewalks; and

(9) Block parties, which must be applied for through a separate, streamlined city process.

(10) Community programs, which must be applied for through a separate city process.

Section 3. KMC Section 19.24.050 is amended to read as follows:

19.24.050 Priority of special event permit issuance.

(a) Except for a special event sponsored by the city, priority shall be given for the issuance of a special event permit to local tax-exempt nonprofit organizations ~~operating in and~~ providing services to the citizens of the city. Dates will be reserved on a first-come, first-served basis not more than one year prior to the proposed date of the event. When on the same business day more than one applicant requests the

same date and venue for their event, the following criteria will be applied in the following order:

(1) The event directly benefits a non-profit organization serving Kirkland residents.

(2) The event and/or the event organizer have a demonstrated history of success in producing events in Kirkland.

(3) The event has been recommended for funding by the Tourism Development Committee.

(4) The event supports a City Council goal or City work program initiative.

(b) Special Event applicants may be granted permission to hold the same event for an additional two years on the same weekend at the same venue if "success" criteria have been met. The Special event application process shall be followed each year. The success criteria are as follows:

(1) All previous special event fees have been paid in full.

(2) Previous special event successfully provided for public safety (event safety plans, traffic control apparatus and volunteers), health (first aid provisions and public health requirements), and sanitation (sufficient number of maintained restroom facilities, maintenance and disposal of event garbage/recycling).

(3) Previous special events properly cared for city facilities and equipment resulting in no damage.

(4) Previous special event applications were properly completed, submitted on time, and in the required format.

Section 4. KMC Section 19.24.070 is amended to read as follows:

19.24.070 When application for special event permit is deemed complete.

An application for a special event permit is deemed complete when the applicant has provided all of the information required ~~in Section 19.24.090, including any additional information required~~ by the special event coordinator, and where city services are to be provided, the application has been approved by any involved city department, or the special event service team, and the city manager and the city council, if required.

Section 5. KMC 19.24.090 is hereby repealed.

Section 6. A new KMC Section 19.24.090 is hereby adopted to read as follows:

19.24.090 Limitations on special events.

(a) No more than two (2) special event permits shall be issued per calendar month at any one venue, or along any one street. The Central Business District and Marina Park shall be considered as the same. This limitation shall not apply to Community Events designated by the City Council.

(b) Special Events shall be limited to no more than three (3) consecutive calendar days; one additional day may be permitted for event load-in or load-out.

(c) Athletic events, including runs and bike races, shall be restricted to city streets or designated trails; sidewalks will remain open for use by the general public. Organized walks may take place on city streets, trails, or sidewalks.

(d) Athletic events held on city streets which include road closures, either rolling or stationary, shall clear the street of all participants and traffic control devices no later than 12:00 p.m.

(e) Athletic event organizers will limit the number of participants in race events to:

(1) 3,000 registered participants for road events longer than 13.1 miles;

(2) 2,000 registered participants for road events shorter than 13.1 miles.

Section 7. KMC Section 19.24.100 is hereby amended to read as follows:

19.24.100 Conditions affecting the issuance of a special event permit.

(a) Where the event organizer has not requested and the special event does not require city services, equipment, or personnel, the special event coordinator may issue a special event permit when, based upon the completed application, all of the conditions listed in this section are met:

(1) The special event will not substantially interrupt public transportation or other vehicular and pedestrian traffic in the area of its route;

(2) The special event will not cause an irresolvable conflict with construction or development in the public right-of-way or at a public facility;

(3) The special event will not block traffic lanes or close streets ~~during peak commuter hours~~ on weekdays between seven a.m. to nine a.m. and four p.m. to six p.m. on streets designated as arterials by the city's public works department;

(4) The special event will not require the diversion of police employees from their normal duties;

(5) The concentration of persons, animals or vehicles will not unduly interfere with the movement of police, fire, ambulance, and other emergency vehicles on the streets;

(6) The special event will move from its assembly location to its disbanding location expeditiously and without stopping en route;

(7) The special event will not substantially interfere with any other special event for which a permit has already been granted or with the provision of city services in support of other scheduled special events or unscheduled governmental functions; and

(8) The special event will not have significant adverse impact upon residential or business access and traffic circulation in the same general venue.

(b) In order to ensure that the conditions in this section are met, the special event coordinator may place conditions on the special event permit.

Section 8. KMC Section 19.24.110 is hereby amended to read as follows:

19.24.110 Reasons for denial of a special event permit.

(a) The special event coordinator may deny a special event permit to an applicant who has not:

(1) Provided for the services of a sufficient number of trained and certified traffic controllers;

(2) Provided sufficient monitors for crowd control and safety two weeks prior to the event date;

(3) Provided sufficient safety, health, or sanitation equipment services, or facilities that are reasonably necessary to ensure that the special event will be conducted with due regard for safety;

(4) Provided sufficient off-site parking or shuttle service, or both, when required, to minimize any substantial adverse impacts on general parking and traffic circulation in the vicinity of the special event; or

(5) Met all of the requirements for submitting an application for a special event permit;

(6) Conducted an authorized or exempted special event in accordance with law or the terms of the permit, or both;

(7) Provided an adequate first aid or emergency medical services plan based on special event risk factors;

(8) Obtained the approval of any other public agency within whose jurisdiction the special event or portion thereof will occur; or

(9) Paid all fees due from a previous special event.

(b) The special event coordinator may deny a special event permit if in the special event coordinator's opinion:

(1) The special event will create the imminent possibility of violent disorderly conduct likely to endanger public safety or to result in significant property damage;

(2) The special event will violate public health or safety laws;

(3) The special event fails to conform to the requirements of law or duly established city policy;

(4) The applicant demonstrates an inability or unwillingness to conduct a special event pursuant to the terms and conditions of this chapter;

~~(5) The applicant has failed to conduct a previously authorized or exempted special event in accordance with law or the terms of a permit, or both;~~

~~(6) The applicant has not obtained the approval of any other public agency within whose jurisdiction the special event or portion thereof will occur;~~

~~(7) The applicant has failed to provide an adequate first aid or emergency medical services plan based on special event risk factors;~~
or

~~(8) The applicant has failed to pay all fees due from previous special events.~~

(c) The special event coordinator may deny a special event permit to an applicant who has failed to comply with any term of this chapter or with any condition of a special event permit previously issued to the applicant.

Section 9. KMC Section 19.24.140 is hereby amended to read as follows:

19.24.140 Contents of special event permit.

(a) The city may condition the issuance of a special event permit by imposing reasonable requirements concerning the time, place and manner of the event, and such requirements as are necessary to protect the safety and rights of persons and property, and the control of traffic. A special event permit may include the following information or conditions:

~~(1) The location of the special event venue, which may be identified by a map attached to the special event permit;~~

~~(2) The date, assembly area, time for assembly, and starting time of the special event;~~

~~(3) The specific route plan of the special event;~~

~~(4) The minimum and maximum speeds of the special event;~~

~~(5) The number and types of persons, animals, and vehicles or structures at the event; the number of bands, other musical units, and equipment capable of producing sound, if any; and limitations thereon pertaining to noise abatement, and inspection and approval of floats, structures, and decorated vehicles for fire safety;~~

~~(6) The maximum interval of space to be maintained between booths or other structures to be used for the special event;~~

~~(7) The portion of the street and sidewalk that is to be occupied by the special event;~~

~~(8) The location of reviewing or audience stands, if any;~~

~~(9) The number and location of traffic controllers, monitors, other support personnel and equipment, and barricades to be furnished by the special event organizer;~~

~~(10) The area and time for disbanding;~~

~~(11) The conditions or restrictions on the use of alcoholic beverages and authorization for and conditions of the exclusive control or regulation of vendors and related sales activity by the event organizer during the special event;~~

~~(12) The provisions for any required emergency medical services;~~
and

~~(13) Such other information and conditions as are reasonably necessary for the conduct of the special event and the enforcement of this chapter, including the requirement for a professional event management company or certified race director to produce an event~~

or for the on-site presence of the event organizer or its designated representative for all special event coordination and management purposes.

(b) As a condition of the issuance of a special event permit, the applicant shall be required to do a walk-through of the event site with the special event coordinator prior to the event, and make adequate provisions for cleaning the area or route of the special event both during and upon completion of the special event and to return the area or route to the same condition of material preservation and cleanliness as existed prior to the special event.

Section 10. KMC Section 19.24.150 is hereby amended to read as follows:

19.24.150 Special event coordinator's action on special event permit application.

(a) Except as otherwise provided in this section, the special event coordinator shall take final action upon a completed application for a special event permit no less than five business days prior to the event ~~as soon as practicable.~~

(b) The special event coordinator is not required to take final action upon any special event permit application prior to one hundred eighty calendar days before the special event.

(c) The special event coordinator is not required to take final action on an incomplete or untimely special event permit application.

~~(d) The special event coordinator is not required to process more than one application for a special event permit per applicant during any two-week period.~~

~~(e) The special event coordinator is not required to take final action upon two or more special event permit applications submitted by the same applicant unless two or more weeks shall have elapsed between the respective dates of submission of each.~~

(~~f~~d) Final action on a completed special event permit application shall consist of one of the following:

(1) Issuance of a special event permit in accordance with the terms of the application; or

(2) Issuance of a special event permit in accordance with the terms of the application, as conditioned by the special event coordinator or as modified by mutual agreement between the special event coordinator and the applicant; or

(3) Denial of the special event permit application by the special event coordinator.

Section 11. KMC Section 19.24.160 is hereby amended to read as follows:

19.24.160 Insurance required to conduct special event.

(a) The event organizer of a special event must possess or obtain comprehensive general liability insurance to protect the city against loss from liability imposed by law for damages on account of bodily

injury and property damage arising from the special event. Such insurance shall name the city of Kirkland, its officers, employees, and agents, and, as required, any other public entity involved in the special event, as additional insured. Insurance coverage must be maintained for the duration of the special event. Notice of cancellation shall be provided immediately to the city.

(b) Except as provided in this section, the comprehensive general liability insurance coverage required shall be in a combined single limit of at least one million dollars.

(c) If the special event is of a demonstrated high or low risk category, according to recognized insurance and risk management standards, the city's safety/risk manager analyst may authorize a greater or lesser amount of coverage than otherwise required, or may require a particular type of insurance coverage different from that specified in this section.

(d) The insurance required by this section shall encompass all liability insurance requirements imposed for other permits required under other sections of this chapter and is to be provided for the benefit of the city and not as a duty, express or implied, to provide insurance protection for spectators or participants.

(e) The event organizer's current effective insurance policy, or copy, along with necessary endorsements, shall be filed with the special event coordinator at least thirty calendar days before the special event, unless the special event coordinator for good cause modifies the filing requirements.

Section 12. KMC Section 19.24.170 is hereby amended to read as follows:

19.24.170 Waiver of insurance requirements.

(a) Except for special events where the sale of alcoholic beverages is authorized, the insurance requirements of Section 19.24.160 may be waived. In making the determination of whether to waive insurance, the city shall consider the following factors:

(1) Whether it is an expressive activity special event governed by Section 19.24.220;

(2) Whether it is objectively impossible to obtain insurance coverage;

(3) Whether the special event will involve the use of equipment (~~other than sound equipment~~), such as vehicles, animals, fireworks, ~~or pyrotechnics~~ water vessels, or inflatable bouncers; or

(4) Whether a fee or donation is charged or required as a condition of admission or participation in the special event.

(b) To claim that it is objectively impossible to obtain insurance coverage pursuant to this section, the applicant shall submit a statement from at least two independent licensed insurance brokers demonstrating the insurance is unavailable in the marketplace.

(c) Even though insurance is waived, the city may require the event organizer of a special event to defend, indemnify, and hold harmless the city from any claim or liability arising from the special event.

Section 13. KMC Section 19.24.180 is hereby amended to read as follows:

19.24.180 Revocation of special event permit.

(a) Any special event permit issued pursuant to this chapter is subject to revocation, pursuant to this section.

(b) A special event permit may be revoked if the city determines:

(1) That the special event cannot be conducted without violating the standards or conditions for special event permit issuance;

(2) The special event is being conducted in violation of any condition of the special event permit;

(3) The special event poses a threat to health or safety;

(4) The event organizer or any person associated with the special event has failed to obtain any other permit required pursuant to the provisions of this chapter;

(5) The special event permit was issued in error or contrary to law;

or

(6) The applicant has not paid all fees when due, ~~or~~

~~(7) The applicant has failed to provide confirmation or proof that it has obtained the minimum number of required volunteers to perform safety functions.~~

(c) Except as provided in this section, notices of revocation shall be in writing and specifically set forth the reasons for the revocation.

(d) If there is an emergency requiring immediate revocation of a special event permit, the special event coordinator may notify the permit holder verbally of the revocation.

(e) An appeal from a revocation shall be handled in the same manner and under the same time requirements as denials of special event permits, pursuant to Section [19.24.120](#).

Section 14. KMC Section 19.24.190 is hereby amended to read as follows:

19.24.190 Cost recovery for special events.

Upon approval of an application for a permit for a special event not protected under the First and Fourteenth Amendments of the U.S. Constitution, the special event coordinator should provide the applicant with a statement of the estimated cost of city services and of equipment, materials and permit fees.

(1) The full range of costs associated with special events shall be documented.

(2) A special event permit fee shall be charged. The amount of the fee shall be set administratively by the city manager or his or her designee.

(3) For special events in which benefits to recognized charitable organizations are a significant component, staff time and costs associated with day of event activities shall be charged based on the city's ~~published fee schedule~~ direct costs only. For all other special events, staff time and costs incurred with day of event activities shall

be for the full amount of costs incurred by the city in connection with the event, including indirect costs of staff time such as benefits and all overhead costs associated with the position.

(4) The special event coordinator shall require payment of fees, or a reasonable estimate thereof, at the time the completed application is approved, unless the special event coordinator for good cause extends time for payment.

(5) If the event organizer fails to comply with the cleanup requirements of Section 19.24.140, the event organizer will be billed for actual city costs for cleanup and repair of the special event area or route.

(6) If the event organizer fails to comply with Section 19.24.140 or this section under a previously issued special event permit, the special event coordinator may require the event organizer to deposit adequate surety in the form of cash or bond.

Section 15. KMC Section 19.24.220 is hereby amended to read as follows:

19.24.220 Expressive activity special event.

When a special event permit is sought for an expressive activity such as a demonstration, rally, or march as defined in this chapter, the following exceptions shall apply:

(1) Where the special event will not require temporary street closures, cost recovery, pursuant to Section 19.24.190, shall be limited solely to a fee based on the cost of processing the permit application.

(2) The insurance requirement of Section 19.24.160 shall be waived; provided, that the event organizer has filed with the application a verified statement that he or she intends the special event purpose to be First Amendment expression and the cost of obtaining insurance is financially burdensome and would constitute an unreasonable burden on the right of First Amendment expression. The verified statement shall include the name and address of one insurance broker or other source for insurance coverage contacted to determine premium rates for coverage.

(3) Where the special event will require temporary street closures ~~and any one or more of the conditions of subsection (4) of this section, are met~~ requiring the city to provide services in the interests of public health, safety, and welfare, the special event coordinator may condition the issuance of the special event permit upon payment of actual, direct costs incurred by the city to a maximum of five hundred dollars. Any fee schedule adopted by the city shall contain a provision for waiver of, or a sliding scale for payment of, fees for city services, including police costs, on the basis of ability to pay.

(4) The city may deny a special event permit for a demonstration, rally or march if:

(A) The special event will substantially interrupt public transportation or other vehicular and pedestrian traffic in the area of its route;

(B) The special event will cause an irresolvable conflict with construction or development in the public right-of-way or at a public facility;

(C) The special event will block traffic lanes or close streets during peak ~~commuter~~ commute hours on weekdays between seven a.m. to nine a.m. and four p.m. to six p.m. on streets designated as arterials by the city's public works department;

(D) The special event will require the diversion of police employees from their normal duties;

(E) The concentration of persons, animals, or vehicles will unduly interfere with the movement of police, fire, ambulance, and other emergency vehicles on the streets;

(F) The special event will substantially interfere with another special event for which a permit has already been granted or with the provision of city services in support of other scheduled special events; or

(G) The special event will have significant adverse impact upon residential or business access and traffic circulation in the same general venue.

(5) With regard to the permitting of expressive activity special events where the provisions in this section conflict with the provisions in any other section of this chapter, the provisions of this section shall prevail.

(6) Sections 19.24.100, 19.24.110 and 19.24.260 of this chapter shall not apply to expressive activity special events.

Section 16. KMC Section 19.24.260 is hereby amended to read as follows:

19.24.260 Authorized special event vendors.

(a) The issuance of a special event permit confers upon the permit holder or event organizer the right to control and regulate the sale of goods, food, and beverages within the special event venue in accordance with the terms and conditions of the special event permit.

~~(b) Vendors authorized to sell goods, food, or beverages in the special event venue shall display their authorization in the manner required by the city manager. Only vendors displaying the required authorization shall be allowed to sell goods, food, or beverages in the special event venue.~~

Section 17. KMC Section 19.24.270 is hereby amended to read as follows:

19.24.270 Unlawful to conduct or promote attendance at special event without permit.

(a) It is unlawful to conduct or manage a special event without a special event permit as required pursuant to this chapter.

(b) It is unlawful for any person to promote any special event for which initial approval has not been obtained from the City.

~~(b) It is unlawful for any person to conduct, promote, or manage any special event for which a special event permit has not been issued.~~

Section 18. KMC Section 19.24.290 is hereby amended to read as follows:

19.24.290 Unlawful to sell goods in special event venue without authorization.

It is unlawful for any person to sell, resell, or offer to sell or resell, any goods, food, or beverages in a special event venue except for authorized special event vendors and vendors under city contract.

Section 19. A new KMC Section 19.24.295 is hereby adopted to read as follows:

19.24.295 Conditions for beer and wine gardens.

(a) Beer and wine gardens shall comply with all state laws and regulations relating to alcohol, all conditions imposed by the State Liquor Control Board and shall be subject to the following conditions:

(1) The sale, service, and consumption of beer/wine must be confined to a designated location(s).

(2) Beer/wine may be sold, served, and consumed between 8:00 am and 11:00 pm, seven days a week. After 11:00 pm no one may possess, consume or be served alcohol.

(3) Beer/wine may only be served when food is also available in conjunction with the special event.

(4) The event organizer is responsible for securing entrances and exits with staff checking for age twenty-one (21) and over identification.

(5) Alcoholic beverages may not be removed from or brought into the garden; except for original unopened bottles purchased for off-site consumption.

(6) The beer/wine garden shall be separately fenced with six foot high chain link fencing or 42 inch high picket fencing.

(7) Tables, counters, ledges or similar surfaces may not be used as barriers between restricted and non-restricted areas.

(8) Where alcohol is served or consumed, event organizers must maintain sufficient lighting so that identification may be checked and patrons may be observed for the enforcement of liquor laws and rules.

(9) The presence of no less than two city of Kirkland police officers is required during public beer/wine garden hours.

(b) A breach of any of the foregoing conditions shall constitute grounds for immediate revocation of the permit.

Section 20. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance, or the application of the provision to other persons or circumstances is not affected.

Section 21. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to Section 1.08.017, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2013.

Signed in authentication thereof this _____ day of _____, 2013.

MAYOR

Attest:

City Clerk

Approved as to Form:

City Attorney

SUBSTITUTE ORDINANCE O-4431

AN ORDINANCE OF THE CITY OF KIRKLAND AMENDING AND UPDATING CHAPTER 19.24 OF THE KIRKLAND MUNICIPAL CODE RELATING TO SPECIAL EVENTS.

The City Council of the City of Kirkland ordains as follows:

Section 1. Kirkland Municipal Code ("KMC") Section 19.24.010 is hereby amended to read as follows:

19.24.010 Definitions.

Terms used in this chapter shall have the following meanings:

(1) "Benefitting a Kirkland Non-Profit" means a financial benefit for a non-profit agency serving Kirkland residents. The financial contribution should represent no less than 10% of the net profits of the event.

(2) "Certified race director" means a person who has successfully completed an educational program and received nationally recognized credentials showing the recipient has the knowledge required to conduct safe events for rides, runs, walks, and swims.

(3) "Community Event" means a special event designated as such by the City Council which is intended primarily for Kirkland residents, is free of an admission charge, is organized by the city or a recognized Kirkland non-profit agency, and is intended to celebrate an important community holiday or tradition.

(4) "Community Programs" means activities of an on-going nature which are open to the public and provided free of an admission charge, such as weekly farmer's markets and park performing arts series.

(~~5~~) "Demonstration" means a public display of group opinion as by a rally or march, the principal purpose of which is expressive activity.

(~~26~~) "Event organizer" means any person who conducts, manages, promotes, organizes, aids, or solicits attendance at a special event.

(~~37~~) "Event management company" means an entity with expertise in managing special events.

(~~48~~) "Expressive activity" includes conduct the sole or principal object of which is the expression, dissemination, or communication by verbal, visual, literary, or auditory means of political or religious opinion, views, or ideas and for which no fee or donation is charged or required as a condition of participation in or attendance at such activity. For purposes of this chapter, expressive activity does not include fairs, festivals, concerts, performances, parades, athletic sports events, including marathons, fundraising events, or events the principal purpose of which is entertainment.

(9) "Fundraising Event" means a special event held by a non-profit entity that is primarily for the purposes of fund-raising for the benefit of the sponsoring non-profit.

(~~510~~) "Gross revenues" means the sum of all revenues received by an event organizer for a special event including, but not limited to,

cash receipts, licensing, sponsorships, television, advertising and similar revenues, and concessions.

(11) "Major Event" means any special event that causes the closure or limited use of streets, sidewalks, public parking, parks or other public venues normally accessible by the general public or a special event that causes significant impacts to the public.

(612) "March" means an organized walk or event whose principal purpose is expressive activity in service of a public cause.

(713) "Noncommercial special event" means any special event organized and conducted by a person or entity that qualifies as a tax-exempt nonprofit organization, or a special event whose principal purpose is expressive activity.

(14) "Picketing" means a person posted by a labor organization at a place of work affected by a strike; or a person posted for a demonstration or protest.

(815) "Rally" means a gathering whose principal purpose is expressive activity, especially one intended to inspire enthusiasm for a cause.

(916) "Sidewalk" means that portion of a right-of-way, other than the roadway, set apart by curbs, barriers, markings, or other delineation for pedestrian travel.

(1017) "Sign" means any sign, pennant, flag, banner, inflatable display, or other attention-seeking device.

(1118) "Special event service team" means representatives assigned by their respective department directors to represent the interests of their department as it relates to the issuance of special event permits.

(1219) "Special event" means any fair, festival, concert, performance, show, parade, run/walk/bike, festival, or other publicly attended entertainment or celebration which is to be held in whole or in part upon publicly owned property or public rights-of-way, or if held wholly upon private property, will nevertheless affect or impact the ordinary and normal use by the general public of public property or public rights-of-way within the vicinity of such event.

(1320) "Special event permit" means a permit issued under this chapter.

(1421) "Special event venue" means that area for which a special event permit has been issued.

(1522) "Street" means any place that is publicly maintained and open to use of the public for purposes of vehicular travel, including highways.

(23) "Supportive Events" are events whose purpose is to provide a positive community experience while also generating revenues to assist the funding of Community Events and Community Programs.

(1624) "Tax-exempt nonprofit organization" means an organization that is exempted from payment of income taxes by federal or state law and has been in existence for a minimum of six months preceding the date of application for a special event permit.

(25) "Tourism Event" means any special event that furthers the City's economic development goals, is primarily intended to attract

participants from out of the immediate area and is eligible to receive funding from lodging tax funds. The receipt of lodging tax funds granted by the City for an event is contingent upon the issuance of a special event permit and the successful implementation of the event.

(1726) "Vendor" means any person who sells or offers to sell any goods, food, or beverages within a special event venue.

Section 2. KMC Section 19.24.030 is amended to read as follows:

19.24.030 Exceptions to special event permit requirement.

(a) Although not required to be issued a special event permit, an event organizer of an activity exempted from this chapter is required to comply with all local, state and federal laws and regulations governing public safety or health.

(b) The following activities are exempt from having to obtain a special event permit:

(1) Parades, athletic events or other special events that occur exclusively in city parks, ~~and are sponsored or conducted in full by the city of Kirkland parks department~~ which must be applied for through a separate city process;

(2) Funeral procession by a licensed mortuary;

(3) ~~Public G~~gatherings of one hundred or fewer people in a city park, unless merchandise or services are offered for sale or trade to the public, in which case a special event permit is required;

(4) Temporary sales conducted by businesses, such as holiday sales, grand opening sales, sidewalk sales, or anniversary sales;

(5) Garage sales, rummage sales, lemonade stands and car washes;

(6) Private events held entirely on private property that do not involve the use of or have an impact on public property or facilities and that do not require the provision of city public safety services;

(7) Activities conducted by a governmental agency acting within the scope of its authority;

(8) Lawful picketing on sidewalks; and

(9) Block parties, which must be applied for through a separate, streamlined city process.

(10) Community programs, which must be applied for through a separate city process.

Section 3. KMC Section 19.24.050 is amended to read as follows:

19.24.050 Priority of special event permit issuance.

(a) Except for a special event sponsored by the city, priority shall be given for the issuance of a special event permit to local tax-exempt nonprofit organizations ~~operating in and~~ providing services to the citizens of the city. Dates will be reserved on a first-come, first-served basis not more than one year prior to the proposed date of the event. When on the same business day more than one applicant requests the

same date and venue for their event, the following criteria will be applied in the following order:

(1) The event directly benefits a non-profit organization serving Kirkland residents.

(2) The event and/or the event organizer have a demonstrated history of success in producing events in Kirkland.

(3) The event has been recommended for funding by the Tourism Development Committee.

(4) The event supports a City Council goal or City work program initiative.

(b) Special Event applicants may be granted permission to hold the same event for an additional two years on the same weekend at the same venue if "success" criteria have been met. The Special event application process shall be followed each year. The success criteria are as follows:

(1) All previous special event fees have been paid in full.

(2) Previous special event successfully provided for public safety (event safety plans, traffic control apparatus and volunteers), health (first aid provisions and public health requirements), and sanitation (sufficient number of maintained restroom facilities, maintenance and disposal of event garbage/recycling).

(3) Previous special events properly cared for city facilities and equipment resulting in no damage.

(4) Previous special event applications were properly completed, submitted on time, and in the required format.

(c) The Director of Parks and Community Services is authorized to deny a special event application or require modification of the date or venue of a special event if the proposed special event is deemed by the Director to adversely impact a Supportive Event.

(d) Any applicant who objects to the denial of a special event application or required modifications of the date or venue by the Director of Parks and Community Services may appeal in writing (including email) to the City Manager for a review of that decision. The City Manager will consider the appeal and either affirm or reverse the denial or modification within ten business days following the City Manager's receipt of the appeal or within such other time as the City Manager and the applicant mutually agree.

Section 4. KMC Section 19.24.070 is amended to read as follows:

19.24.070 When application for special event permit is deemed complete.

An application for a special event permit is deemed complete when the applicant has provided all of the information required in ~~Section 19.24.090~~, including any additional information required by the special event coordinator, and where city services are to be provided, the application has been approved by any involved city department, or the special event service team, and the city manager and the city council, if required.

Section 5. KMC 19.24.090 is hereby repealed.

Section 6. A new KMC Section 19.24.090 is hereby adopted to read as follows:

19.24.090 Limitations on special events.

(a) No more than two (2) special event permits shall be issued per calendar month at any one venue, or along any one street. The Central Business District and Marina Park shall be considered as the same. This limitation shall not apply to Community Events designated by the City Council.

(b) Special Events shall be limited to no more than three (3) consecutive calendar days; one additional day may be permitted for event load-in or load-out.

(c) Athletic events, including runs and bike races, shall be restricted to city streets or designated trails; sidewalks will remain open for use by the general public. Organized walks may take place on city streets, trails, or sidewalks.

(d) Athletic events held on city streets which include road closures, either rolling or stationary, shall clear the street of all participants and traffic control devices no later than 12:00 p.m.

(e) The Director of Parks and Community Services, in consultation with the Police Department and the Special Events Team, shall have the authority to limit the number of participants in athletic events if deemed necessary by the Director to protect public safety of both the participants and the surrounding community.

~~_(e) Athletic event organizers will limit the number of participants in race events to:~~

~~(1) 3,000 registered participants for road events longer than 13.1 miles;~~

~~(2) 2,000 registered participants for road events shorter than 13.1 miles.~~

(f) Any applicant who objects to the limitation of the number of participants in athletic events by the Director of Parks and Community Services may appeal in writing (including email) to the City Manager for a review of that decision. The City Manager will consider the appeal and either affirm or reverse the decision within ten business days following the City Manager's receipt of the appeal or within such other time as the City Manager and the applicant mutually agree.

Section 7. KMC Section 19.24.100 is hereby amended to read as follows:

19.24.100 Conditions affecting the issuance of a special event permit.

(a) Where the event organizer has not requested and the special event does not require city services, equipment, or personnel, the special event coordinator may issue a special event permit when, based upon the completed application, all of the conditions listed in this section are met:

(1) The special event will not substantially interrupt public transportation or other vehicular and pedestrian traffic in the area of its route;

(2) The special event will not cause an irresolvable conflict with construction or development in the public right-of-way or at a public facility;

(3) The special event will not block traffic lanes or close streets ~~during peak commuter hours~~ on weekdays between seven a.m. to nine a.m. and four p.m. to six p.m. on streets designated as arterials by the city's public works department;

(4) The special event will not require the diversion of police employees from their normal duties;

(5) The concentration of persons, animals or vehicles will not unduly interfere with the movement of police, fire, ambulance, and other emergency vehicles on the streets;

(6) The special event will move from its assembly location to its disbanding location expeditiously and without stopping en route;

(7) The special event will not substantially interfere with any other special event for which a permit has already been granted or with the provision of city services in support of other scheduled special events or unscheduled governmental functions; and

(8) The special event will not have significant adverse impact upon residential or business access and traffic circulation in the same general venue.

(b) In order to ensure that the conditions in this section are met, the special event coordinator may place conditions on the special event permit.

Section 8. KMC Section 19.24.110 is hereby amended to read as follows:

19.24.110 Reasons for denial of a special event permit.

(a) The special event coordinator may deny a special event permit to an applicant who has not:

(1) Provided for the services of a sufficient number of trained and certified traffic controllers;

(2) Provided sufficient monitors for crowd control and safety two weeks prior to the event date;

(3) Provided sufficient safety, health, or sanitation equipment services, or facilities that are reasonably necessary to ensure that the special event will be conducted with due regard for safety;

(4) Provided sufficient off-site parking or shuttle service, or both, when required, to minimize any substantial adverse impacts on general parking and traffic circulation in the vicinity of the special event; ~~or~~

(5) Met all of the requirements for submitting an application for a special event permit;:-

(6) Conducted an authorized or exempted special event in accordance with law or the terms of the permit, or both;

(7) Provided an adequate first aid or emergency medical services plan based on special event risk factors;

(8) Obtained the approval of any other public agency within whose jurisdiction the special event or portion thereof will occur; or

(9) Paid all fees due from a previous special event.

(b) The special event coordinator may deny a special event permit if in the special event coordinator's opinion:

(1) The special event will create the imminent possibility of violent disorderly conduct likely to endanger public safety or to result in significant property damage;

(2) The special event will violate public health or safety laws;

(3) The special event fails to conform to the requirements of law or duly established city policy;

(4) The applicant demonstrates an inability or unwillingness to conduct a special event pursuant to the terms and conditions of this chapter;

~~(5) The applicant has failed to conduct a previously authorized or exempted special event in accordance with law or the terms of a permit, or both;~~

~~(6) The applicant has not obtained the approval of any other public agency within whose jurisdiction the special event or portion thereof will occur;~~

~~(7) The applicant has failed to provide an adequate first aid or emergency medical services plan based on special event risk factors;~~
or

~~(8) The applicant has failed to pay all fees due from previous special events.~~

(c) The special event coordinator may deny a special event permit to an applicant who has failed to comply with any term of this chapter or with any condition of a special event permit previously issued to the applicant.

Section 9. KMC Section 19.24.140 is hereby amended to read as follows:

19.24.140 Contents of special event permit.

(a) The city may condition the issuance of a special event permit by imposing reasonable requirements concerning the time, place and manner of the event, and such requirements as are necessary to protect the safety and rights of persons and property, and the control of traffic. A special event permit may include the following information or conditions:

~~(1) The location of the special event venue, which may be identified by a map attached to the special event permit;~~

~~(2) The date, assembly area, time for assembly, and starting time of the special event;~~

~~(3) The specific route plan of the special event;~~

~~(4) The minimum and maximum speeds of the special event;~~

~~(5) The number and types of persons, animals, and vehicles or structures at the event; the number of bands, other musical units, and~~

~~equipment capable of producing sound, if any; and limitations thereon pertaining to noise abatement, and inspection and approval of floats, structures, and decorated vehicles for fire safety;~~

~~(6) The maximum interval of space to be maintained between booths or other structures to be used for the special event;~~

~~(7) The portion of the street and sidewalk that is to be occupied by the special event;~~

~~(8) The location of reviewing or audience stands, if any;~~

~~(9) The number and location of traffic controllers, monitors, other support personnel and equipment, and barricades to be furnished by the special event organizer;~~

~~(10) The area and time for disbanding;~~

~~(11) The conditions or restrictions on the use of alcoholic beverages and authorization for and conditions of the exclusive control or regulation of vendors and related sales activity by the event organizer during the special event;~~

~~(12) The provisions for any required emergency medical services; and~~

~~(13) Such other information and conditions as are reasonably necessary for the conduct of the special event and the enforcement of this chapter, including the requirement for a professional event management company or certified race director to produce an event or for the on-site presence of the event organizer or its designated representative for all special event coordination and management purposes.~~

(b) As a condition of the issuance of a special event permit, the applicant shall be required to do a walk-through of the event site with the special event coordinator prior to the event, and make adequate provisions for cleaning the area or route of the special event both during and upon completion of the special event and to return the area or route to the same condition of material preservation and cleanliness as existed prior to the special event.

Section 10. KMC Section 19.24.150 is hereby amended to read as follows:

19.24.150 Special event coordinator's action on special event permit application.

(a) Except as otherwise provided in this section, the special event coordinator shall take final action upon a completed application for a special event permit no less than five business days prior to the event as soon as practicable.

(b) The special event coordinator is not required to take final action upon any special event permit application prior to one hundred eighty calendar days before the special event.

(c) The special event coordinator is not required to take final action on an incomplete or untimely special event permit application.

~~(d) The special event coordinator is not required to process more than one application for a special event permit per applicant during any two-week period.~~

~~(e) The special event coordinator is not required to take final action upon two or more special event permit applications submitted by the same applicant unless two or more weeks shall have elapsed between the respective dates of submission of each.~~

(fd) Final action on a completed special event permit application shall consist of one of the following:

(1) Issuance of a special event permit in accordance with the terms of the application; or

(2) Issuance of a special event permit in accordance with the terms of the application, as conditioned by the special event coordinator or as modified by mutual agreement between the special event coordinator and the applicant; or

(3) Denial of the special event permit application by the special event coordinator.

Section 11. KMC Section 19.24.160 is hereby amended to read as follows:

19.24.160 Insurance required to conduct special event.

(a) The event organizer of a special event must possess or obtain comprehensive general liability insurance to protect the city against loss from liability imposed by law for damages on account of bodily injury and property damage arising from the special event. Such insurance shall name the city of Kirkland, its officers, employees, and agents, and, as required, any other public entity involved in the special event, as additional insured. Insurance coverage must be maintained for the duration of the special event. Notice of cancellation shall be provided immediately to the city.

(b) Except as provided in this section, the comprehensive general liability insurance coverage required shall be in a combined single limit of at least one million dollars.

(c) If the special event is of a demonstrated high or low risk category, according to recognized insurance and risk management standards, the city's safety/risk manager analyst may authorize a greater or lesser amount of coverage than otherwise required, or may require a particular type of insurance coverage different from that specified in this section.

(d) The insurance required by this section shall encompass all liability insurance requirements imposed for other permits required under other sections of this chapter and is to be provided for the benefit of the city and not as a duty, express or implied, to provide insurance protection for spectators or participants.

(e) The event organizer's current effective insurance policy, or copy, along with necessary endorsements, shall be filed with the special event coordinator at least thirty calendar days before the special event, unless the special event coordinator for good cause modifies the filing requirements.

Section 12. KMC Section 19.24.170 is hereby amended to read as follows:

19.24.170 Waiver of insurance requirements.

(a) Except for special events where the sale of alcoholic beverages is authorized, the insurance requirements of Section 19.24.160 may be waived. In making the determination of whether to waive insurance, the city shall consider the following factors:

(1) Whether it is an expressive activity special event governed by Section 19.24.220;

(2) Whether it is objectively impossible to obtain insurance coverage;

(3) Whether the special event will involve the use of equipment ~~(other than sound equipment)~~, such as vehicles, animals, fireworks, or pyrotechnics water vessels, or inflatable bouncers; or

(4) Whether a fee or donation is charged or required as a condition of admission or participation in the special event.

(b) To claim that it is objectively impossible to obtain insurance coverage pursuant to this section, the applicant shall submit a statement from at least two independent licensed insurance brokers demonstrating the insurance is unavailable in the marketplace.

(c) Even though insurance is waived, the city may require the event organizer of a special event to defend, indemnify, and hold harmless the city from any claim or liability arising from the special event.

Section 13. KMC Section 19.24.180 is hereby amended to read as follows:

19.24.180 Revocation of special event permit.

(a) Any special event permit issued pursuant to this chapter is subject to revocation, pursuant to this section.

(b) A special event permit may be revoked if the city determines:

(1) That the special event cannot be conducted without violating the standards or conditions for special event permit issuance;

(2) The special event is being conducted in violation of any condition of the special event permit;

(3) The special event poses a threat to health or safety;

(4) The event organizer or any person associated with the special event has failed to obtain any other permit required pursuant to the provisions of this chapter;

(5) The special event permit was issued in error or contrary to law;
or

(6) The applicant has not paid all fees when due, ~~or~~

~~(7) The applicant has failed to provide confirmation or proof that it has obtained the minimum number of required volunteers to perform safety functions.~~

(c) Except as provided in this section, notices of revocation shall be in writing and specifically set forth the reasons for the revocation.

(d) If there is an emergency requiring immediate revocation of a special event permit, the special event coordinator may notify the permit holder verbally of the revocation.

(e) An appeal from a revocation shall be handled in the same manner and under the same time requirements as denials of special event permits, pursuant to Section 19.24.120.

Section 14. KMC Section 19.24.190 is hereby amended to read as follows:

19.24.190 Cost recovery for special events.

Upon approval of an application for a permit for a special event not protected under the First and Fourteenth Amendments of the U.S. Constitution, the special event coordinator should provide the applicant with a statement of the estimated cost of city services and of equipment, materials and permit fees.

(1) The full range of costs associated with special events shall be documented.

(2) A special event permit fee shall be charged. The amount of the fee shall be set administratively by the city manager or his or her designee.

(3) For special events in which benefits to recognized charitable organizations are a significant component, staff time and costs associated with day of event activities shall be charged based on the city's published fee schedule~~direct costs only~~. For all other special events, staff time and costs incurred with day of event activities shall be for the full amount of costs incurred by the city in connection with the event, including indirect costs of staff time such as benefits and all overhead costs associated with the position.

(4) The special event coordinator shall require payment of fees, or a reasonable estimate thereof, at the time the completed application is approved, unless the special event coordinator for good cause extends time for payment.

(5) If the event organizer fails to comply with the cleanup requirements of Section 19.24.140, the event organizer will be billed for actual city costs for cleanup and repair of the special event area or route.

(6) If the event organizer fails to comply with Section 19.24.140 or this section under a previously issued special event permit, the special event coordinator may require the event organizer to deposit adequate surety in the form of cash or bond.

Section 15. KMC Section 19.24.220 is hereby amended to read as follows:

19.24.220 Expressive activity special event.

When a special event permit is sought for an expressive activity such as a demonstration, rally, or march as defined in this chapter, the following exceptions shall apply:

(1) Where the special event will not require temporary street closures, cost recovery, pursuant to Section 19.24.190, shall be limited solely to a fee based on the cost of processing the permit application.

(2) The insurance requirement of Section 19.24.160 shall be waived; provided, that the event organizer has filed with the application a verified statement that he or she intends the special event purpose to be First Amendment expression and the cost of obtaining insurance is financially burdensome and would constitute an unreasonable burden on the right of First Amendment expression. The verified statement shall include the name and address of one insurance broker or other source for insurance coverage contacted to determine premium rates for coverage.

(3) Where the special event will require temporary street closures ~~and any one or more of the conditions of subsection (4) of this section, are met~~ requiring the city to provide services in the interests of public health, safety, and welfare, the special event coordinator may condition the issuance of the special event permit upon payment of actual, direct costs incurred by the city to a maximum of five hundred dollars. Any fee schedule adopted by the city shall contain a provision for waiver of, or a sliding scale for payment of, fees for city services, including police costs, on the basis of ability to pay.

(4) The city may deny a special event permit for a demonstration, rally or march if:

(A) The special event will substantially interrupt public transportation or other vehicular and pedestrian traffic in the area of its route;

(B) The special event will cause an irresolvable conflict with construction or development in the public right-of-way or at a public facility;

(C) The special event will block traffic lanes or close streets during peak ~~commuter~~ commute hours on weekdays between seven a.m. to nine a.m. and four p.m. to six p.m. on streets designated as arterials by the city's public works department;

(D) The special event will require the diversion of police employees from their normal duties;

(E) The concentration of persons, animals, or vehicles will unduly interfere with the movement of police, fire, ambulance, and other emergency vehicles on the streets;

(F) The special event will substantially interfere with another special event for which a permit has already been granted or with the provision of city services in support of other scheduled special events; or

(G) The special event will have significant adverse impact upon residential or business access and traffic circulation in the same general venue.

(5) With regard to the permitting of expressive activity special events where the provisions in this section conflict with the provisions in any other section of this chapter, the provisions of this section shall prevail.

(6) Sections 19.24.100, 19.24.110 and 19.24.260 of this chapter shall not apply to expressive activity special events.

Section 16. KMC Section 19.24.260 is hereby amended to read as follows:

19.24.260 Authorized special event vendors.

(a) The issuance of a special event permit confers upon the permit holder or event organizer the right to control and regulate the sale of goods, food, and beverages within the special event venue in accordance with the terms and conditions of the special event permit.

~~(b) Vendors authorized to sell goods, food, or beverages in the special event venue shall display their authorization in the manner required by the city manager. Only vendors displaying the required authorization shall be allowed to sell goods, food, or beverages in the special event venue.~~

Section 17. KMC Section 19.24.270 is hereby amended to read as follows:

19.24.270 Unlawful to conduct or promote attendance at special event without permit.

(a) It is unlawful to conduct or manage a special event without a special event permit as required pursuant to this chapter.

~~(b) It is unlawful for any person to promote any special event for which initial approval has not been obtained from the City.~~

~~(b) It is unlawful for any person to conduct, promote, or manage any special event for which a special event permit has not been issued.~~

Section 18. KMC Section 19.24.290 is hereby amended to read as follows:

19.24.290 Unlawful to sell goods in special event venue without authorization.

It is unlawful for any person to sell, resell, or offer to sell or resell, any goods, food, or beverages in a special event venue except for authorized special event vendors and vendors under city contract.

Section 19. A new KMC Section 19.24.295 is hereby adopted to read as follows:

19.24.295 Conditions for beer and wine gardens.

(a) Beer and wine gardens shall comply with all state laws and regulations relating to alcohol, all conditions imposed by the State Liquor Control Board and shall be subject to the following conditions:

(1) The sale, service, and consumption of beer/wine must be confined to a designated location(s).

(2) Beer/wine may be sold, served, and consumed between 8:00 am and 11:00 pm, seven days a week. After 11:00 pm no one may possess, consume or be served alcohol.

(3) Beer/wine may only be served when food is also available in conjunction with the special event.

(4) The event organizer is responsible for securing entrances and exits with staff checking for age twenty-one (21) and over identification.

(5) Alcoholic beverages may not be removed from or brought into the garden; except for original unopened bottles purchased for off-site consumption.

(6) The beer/wine garden shall be separately fenced with six foot high chain link fencing or 42 inch high picket fencing.

(7) Tables, counters, ledges or similar surfaces may not be used as barriers between restricted and non-restricted areas.

(8) Where alcohol is served or consumed, event organizers must maintain sufficient lighting so that identification may be checked and patrons may be observed for the enforcement of liquor laws and rules.

(9) The presence of no less than two city of Kirkland police officers is required during public beer/wine garden hours.

(b) A breach of any of the foregoing conditions shall constitute grounds for immediate revocation of the permit.

Section 20. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance, or the application of the provision to other persons or circumstances is not affected.

Section 21. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to Section 1.08.017, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2013.

Signed in authentication thereof this _____ day of _____, 2013.

MAYOR

Attest:

City Clerk

Approved as to Form:

City Attorney

PUBLICATION SUMMARY
OF ORDINANCE O-4431

AN ORDINANCE OF THE CITY OF KIRKLAND AMENDING AND UPDATING CHAPTER 19.24 OF THE KIRKLAND MUNICIPAL CODE RELATING TO SPECIAL EVENTS.

SECTION 1. Amends Kirkland Municipal Code ("KMC") Section 19.24.010 updating the definitions related to special events.

SECTION 2. Amends KMC Section 19.24.030 relating to exceptions to the special event permit requirement.

SECTION 3. Amends KMC Section 19.24.050 relating to priority of special event permit issuance.

SECTION 4. Amends KMC Section 19.24.070 describing when an application for a special event permit is deemed complete.

SECTION 5. Repeals KMC Section 19.24.090.

SECTION 6. Adds a new KMC Section 19.24.090 relating to limitations on special events.

SECTION 7. Amends KMC Section 19.24.100 relating to conditions affecting the issuance of a special event permit.

SECTION 8. Amends KMC Section 19.24.110 relating to reasons for denial of a special event permit.

SECTION 9. Amends KMC Section 19.24.140 relating to the contents of special event permits.

SECTION 10. Amends KMC Section 19.24.150 relating to the special event coordinator's action on a special event permit application.

SECTION 11. Amends KMC Section 19.24.160 relating to the insurance required to conduct a special event.

SECTION 12. Amends KMC Section 19.24.170 relating to the waiver of insurance requirements.

SECTION 13. Amends KMC Section 19.24.180 relating to the revocation of a special event permit.

SECTION 14. Amends KMC Section 19.24.190 relating to the cost recovery for special events.

SECTION 15. Amends KMC Section 19.24.220 relating to expressive activity special events.

SECTION 16. Amends KMC Section 19.24.260 relating to authorized special event vendors.

SECTION 17. Amends KMC Section 19.24.270 relating to conducting or promoting attendance at a special event without City approval.

SECTION 18. Amends KMC Section 19.24.290 relating to the unlawful selling of goods in a special event venue without authorization.

SECTION 19. Adds a new KMC Section 19.24.295 relating to permit conditions and regulations applicable to beer and wine gardens.

SECTION 20. Provides a severability clause for the ordinance.

SECTION 21. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as five days after publication of summary.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the _____ day of _____, 2013.

I certify that the foregoing is a summary of Ordinance _____ approved by the Kirkland City Council for summary publication.

City Clerk